THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23311 of 1998

Date:13.11.2007

Between:
G.Venkataramana and three others

...
Petitioners

AND

The Zonal Manager cum Executive Director,
APSRTC, Nellore Zone, Nellore District
and 10 others.

... Respondents

Counsel for the petitioners: Sri Ch. Murali Krishna

Counsel for the respondent: Sri P.Vinayaka Swamy for R1 to R.4

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HONOURABLE MR.JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23311 of 1998

ORDER:-

The action of respondent No.1 in denying promotions to the petitioners as Traffic Inspectors Grade-II and promoting respondents 5 to 11 to the said post is questioned in the present Writ Petition filed for issuance of a Mandamus. The petitioners also sought for a direction to respondent No.1 to promote them as Traffic Inspectors Grade-II.

Stated briefly the averments contained in the affidavit filed in support of the Writ Petition to the extent they are relevant are that they were appointed as Conductors on different dates in the years 1971-72. All of them were promoted initially as Assistant Depot Clerks and later as Depot Clerks. In the Departmental qualifying test conducted by the Regional Manager of APSRTC, Nellore, (for short "the Corporation") in the lower operational management on 16-9-90, petitioners 1 and 4 were qualified and placed at Serial Nos.5 and 13. In respect of petitioners 2 and 3, in view of Circular P.D.74/1989 dated 21-6-1989, which exempted the employees who attained the age of 50 years as on 1st July of the year, in which qualifying examinations were conducted, from appearing the departmental qualifying examinations they are also eligible for being considered for promotion to the post of Traffic Inspectors Grade-II.

Respondent No.1 prepared a panel on 6-12-1997 for promotion to the post of Traffic Inspectors Grade-II with the persons who passed the departmental test held on 29-10-1991 and also those who have completed the age of 50 years. The petitioners along with other eligible candidates appeared for

interview before the departmental selection committee on 27-12-1997. Thereafter a selection list of 18 candidates was prepared, in which the petitioners' names were not included. However, respondent No.1 prepared an urgent list on 16-5-1998, in which the names of the petitioners were included at Serial Nos.11,12, 16 and 15 respectively. But, respondent No.1, without following the seniority and merit rating, selected ten persons out of the said panel for promotion to the post of Traffic Inspectors Grade-II. The petitioners were not among those ten persons who were selected for appointment to the said post. In their affidavit the petitioners showed their placement vis-à-vis that of respondents 2 to 11 in the panel. These details show that while respondents 2 to 5 and 9 to 11 were included at Serial Nos.7, 8, 10, 14, 17, 18 and 19 respectively; petitioners were shown at Serial Nos.11, 12, 16 and 15 respectively. The names of respondents 6 to 8 were not shown in the panel. The grievance of the petitioners, therefore, is that though respondents 6 to 8 were not included in the panel and 9 to 11 were juniors to them, they were appointed as Traffic Inspectors Grade-II, ignoring the seniority of the petitioners. They have, therefore, sought for invalidation of the appointments of respondents 6 to 11 as Traffic Inspectors Grade-II and their appointment to the said post.

The Chief Law Officer of the Corporation filed a counter-affidavit, wherein the petitioners' eligibility for consideration to promotion to the post of Traffic Inspectors Grade-II is admitted. It was stated that while preparing the panel, following the selections held on 27-12-1997, the Corporation followed the criteria of candidates securing 50% minimum marks out of 100 in the interview as fixed in Circular No.145/94 dated 19-12-1994; that the petitioners secured the marks of 48.3, 43.5, 49 and 44.8

respectively and, therefore, their names were not included in the selection panel, while respondents 2 to 11 secured above 50% marks and their names were, therefore, included in the panel. The petitioners' claim that they are more meritorious than respondents 2 to 11 was denied. The petitioners' further claim that in the selection list dated 16-5-1998 their names were shown at Serial Nos.11,12,16 and 15 is also denied and it is averred that the names of Sri S.Narada Reddy, Sri M.S.Manyam, Sri G.Chinniah and Sri S.V.Ramana were shown in the selection list at Serial Nos.11,12, 15 and 16 respectively. It is also averred in the counter-affidavit that all the respondents, including respondents 5 to 11 secured more marks than the marks secured by the petitioners and that the names of respondents 5 to 11 were placed in the panel as they have secured more than 50 marks. It is further averred that as respondents 2 to 11 secured more than 50 marks in the interview, they were given temporary promotion under Regulation 30 of the Andhra Pradesh State Road Transport Corporation (Employees) Recruitment Regulations 1966 (for short "the Regulations") and it was made clear that the said promotions were subject to certain terms and conditions.

During the hearing, Sri P.Vinayaka Swamy, learned Standing Counsel for the Corporation, contended that after temporary promotions were made on 11-6-1998, regular selections have taken place on 18-11-1999, in which one of the petitioners was promoted and others have not appeared for the interview. Since the counter-affidavit filed on behalf of the Corporation did not contain such an averment, the learned Standing Counsel, after taking adjournment, filed additional counter-affidavit of Sri M.M.Shareef, Law Officer of the Corporation. It was stated in the additional counter-affidavit

that pending making of regular selections on the basis of the merit list called for on 16-5-1998, temporary appointments were made under Regulation 30 of the Regulations on 11-6-1998 by promoting ten candidates, later interviews were conducted on 17-11-1999 and 18-11-1999 as per seniority list and petitioners 1 to 3, who stood at serial Nos.17, 18 and 27 in the merit list, did not attend the interview, while petitioner No.4, who stood at serial No.24 in the merit list, was selected. It is further averred that all the petitioners, along with ten candidates, who were temporarily promoted on 11-6-1998, were considered for regular selection and on the basis of the recommendation of the Selection Committee, 39 candidates were selected as Traffic Inspectors Grade-II. It is further stated that all the ten candidates, who were temporarily promoted after being subjected to regular selection process were among the 39 candidates, who were appointed as Traffic Inspectors Grade-II.

After going through the additional counter-affidavit, when the learned Standing Counsel was asked to clarify as to when the notices for interviews held on 17-11-1999 and 18-11-1999 for regular selection, were served on the petitioners, the Law Officer of the Corporation filed another affidavit, in which it was mentioned that the record does not contain the acknowledgments of the petitioners, but, the Unit Officers intimated to the individuals by displaying the dates of interview in the Notice Board. The Corporation, however, filed acknowledgments showing receipt of notices by the petitioners in respect of interviews held for subsequent selections on 4-5-2002 and 29-5-2002. It is mentioned in the affidavit that while petitioner No.3 gave his unwillingness letter to attend both the interviews held on 4-5-2002 and 29-5-2002, petitioner No.1 did not attend the interview in spite of receipt of notice.

Heard Sri Ch.Murali Krishna, learned counsel for the petitioners and Sri P.Vinayaka Swamy, learned Standing Counsel for respondents 1 to 4.

The main contention of the learned counsel for the petitioners is that though respondents 6 to 8 were not placed in the merit list dated 16-5-1998 and respondents 9 to 11 were placed below the petitioners in the said merit list, they were appointed as Traffic Inspectors Grade-II ignoring the seniority/merit of the petitioners. Though this contention appeared to be correct at the first blush, I find no merit in it after a deeper scrutiny of the pleadings and the record. A perusal of the office order dated 11-6-1998, which is the subject matter of challenge in this Writ Petition, shows that respondents 6 to 11 were promoted purely on temporary basis under Regulation 30 of the Regulations. Conditions 1 and 2 of the order of appointment mentioned that their promotion is purely temporary without any probationary rights and any claim for regularization at a later date and they are liable for reversion to their former post without any notice or without assigning any reasons if their work is found to be unsatisfactory.

As already noted in the foregoing, the explanation offered by the Corporation for not considering the petitioners' cases for temporary appointment was that they have not secured 50% marks out of 100 marks in the interview. The Corporation relied upon Circular No.145 of 1994 dated 19-12-1994 in this connection and a copy of the same has been filed as a part of material papers. A perusal of the said circular shows that in Circular dated 8-8-1988 instructions were issued to fix 50 marks out of 100 marks as the essential minimum marks for inclusion in the panel for all the supervisory posts and the said decision was reiterated in this Circular.

As already mentioned, in the counter-affidavit, the marks obtained by the petitioners in the interview held on 27-12-1997 were mentioned as 48.3, 43.5, 49 and 44.8 respectively. Neither the correctness of the averment of the Corporation relating to the marks awarded to them nor the validity of the said Circular is questioned by the petitioner. Therefore, non-selection of the petitioners for temporary appointment under Regulation 30 of the Regulations appears to be in consonance with the declared policy of the Corporation that the candidates who secured minimum of 50% of marks in the interview alone are entitled for selection and appointment. I am, therefore, of the view that non-appointment of the petitioners on temporary basis as Traffic Inspectors Grade-II does not suffer from any illegality or arbitrariness. Since two regular selections have taken place subsequent to the making of impugned appointments, the grievance, if any, of the petitioners did not any longer survive after completion of regular selection process by the Corporation.

Though, during the hearing, this Court, in order to be satisfied whether any injustice was done to the petitioners, probed into the events that have taken place after 11-6-1998, it is not necessary to deal with those events which culminated in the Corporation making regular selection, the validity of which is not in issue in the present Writ Petition and the scope of the present Writ Petition is confined only to the validity or otherwise of the proceedings dated 11-6-1998. Since I am of the considered view that exclusion of the petitioners from consideration for temporary appointments made on 11-6-1998 does not suffer from any arbitrariness or illegality, the petitioners cannot succeed in getting any relief in this Writ Petition.

The Writ Petition is, therefore, dismissed.

C.V.NAGARJUNA REDDY,J
13-11-2007

MNR